



IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
BEAUFORT DIVISION

KEVIN WALTON,	§	
	§	
Petitioner,	§	
	§	
vs.	§	CIVIL ACTION NO. 9:06-2383-HFF-GCK
	§	
STATE OF SOUTH CAROLINA; and	§	
KENNY BOONE, Sheriff of Florence County,	§	
	§	
Respondents.	§	

ORDER ADOPTING THE REPORT AND RECOMMENDATION OF THE
MAGISTRATE JUDGE

This is a habeas corpus petition brought pursuant to 28 U.S.C. § 2241. Petitioner is proceeding pro se. The matter is before the Court for review of the report and recommendation (Report) of the United States Magistrate Judge suggesting that the Court dismiss the petition *without prejudice* and without requiring Respondents to file a return. The Report is made in accordance with 28 U.S.C. § 636 and Local Civil Rule 73.02 for the District of South Carolina.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261, 270 (1976). The Court is charged with making a de novo determination of those portions of the report to which specific objection is made, and the Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

The Magistrate Judge filed the Report on August 29, 2006, and the Clerk entered Petitioner's objections on September 6, 2006. Petitioner's objections, however, appear to reiterate the allegations made in the petition. In an abundance of caution, however, the Court has considered Petitioner's objection memorandum, but finds the objections contained therein to be without merit.

Accordingly, after a thorough review of the Report and the record in this case pursuant to the standards set forth above, the Court overrules Petitioner's objections, adopts the Report and incorporates it herein. Therefore, it is the judgment of this Court that the petition must be **DISMISSED** *without prejudice* and without requiring Respondents to file a return.

IT IS SO ORDERED.

Signed this 9th day of November, 2006, in Spartanburg, South Carolina.

s/ Henry F. Floyd
HENRY F. FLOYD
UNITED STATES DISTRICT JUDGE

NOTICE OF RIGHT TO APPEAL

Petitioner is hereby notified that he has the right to appeal this Order within **thirty (30)** days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.